

EIGHTY-FIFTH SESSION

In re Heitz (No. 4)

Judgment 1766

The Administrative Tribunal,

Considering the fourth complaint filed by Mr. André Joseph Léon Heitz against the International Union for the Protection of New Varieties of Plants (UPOV) on 6 December 1996, UPOV's reply of 14 July 1997, the complainant's rejoinder of 24 July, the Union's letter of 5 September informing the Registrar of the Tribunal that it did not wish to enter a surrejoinder, the observations submitted by the International Civil Service Commission (ICSC) on 13 October, the complainant's comments thereon of 7 November and the ICSC's final brief of 5 December 1997;

Considering Articles II, paragraph 5, and VII of the Statute of the Tribunal and Article 13, paragraph 3, of its Rules;

Having examined the written submissions and decided not to order hearings which neither party has applied for;

Considering that the material facts of the case and the pleadings are identical to those set out, under A to G, in Judgment 1765 (*in re Dondenne No. 2 and others*), which the Tribunal also delivers this day;

CONSIDERATIONS

- 1. This case raises exactly the same issues as the complaints filed by Mr. Bernard Dondenne and others on 6 December 1996 against the World Intellectual Property Organization (WIPO). The facts are much the same, the only difference being that here the defendant is UPOV. The material provisions of the Staff Regulations and Rules too are the same.**
- 2. In Judgment 1765 the Tribunal allows the complaints of Mr. Dondenne and the others. For the same reasons this complaint too is allowed.**
- 3. As to costs the complainant acted as counsel in the other cases. Here he is acting for himself. The cases being similar, the Tribunal will award him 1,000 Swiss francs in costs.**

DECISION

For the above reasons,

- 1. The impugned decision is set aside.**
- 2. The case is sent back to the Union for a new reckoning of the sums due to the complainant as from July 1994 in the light of this judgment.**
- 3. The Union shall pay the complainant 1,000 Swiss francs in costs.**

In witness of this judgment, adopted on 15 May 1998, Mr. Michel Gentot, President of the Tribunal, Mr. Julio Barberis, Judge, and Mr. James K. Hugessen, Judge, sign below, as do I, Allan Gardner, Registrar.

Delivered in public in Geneva on 9 July 1998.

(Signed)

Michel Gentot
Julio Barberis
James K. Hugessen

A.B. Gardner

Updated by PFR. Approved by CC. Last update: 7 July 2000.